CITY OF MILWAUKIE CITY COUNCIL MEETING JULY 18, 1989

The one thousand five hundred and eightieth meeting of the Milwaukie City Council was called to order at 6:56 PM in the Council Chambers with the following Councilmembers present:

Roger Hall, Mayor Craig Lomnicki William Fitzgerald Chere' Sandusky Michael Richmond

Also present:

Dan Bartlett,
City Manager
Tim Ramis,
City Attorney
Sandra Miller,
Assistant to the
City Manager
Jerri Widner
Finance Director

Dick Bailey,
Public Works Director
Bill Adams,
Community Development Director
Anne Nickel,
Developer Coordinator
Dave Krogh,
Assistant Planner
Pat DuVal,
Executive Secretary

AUDIENCE PARTICIPATION

Brooks Washburn, 4735 White Lake Rd., discussed exportation of logs to Japan.

PUBLIC HEARING

Consideration of Code Enforcement Ordinance

Mayor Hall called the public hearing to order at 7:01 PM.

Tim Ramis, City Attorney, presented the staff report. He explained that the proposed ordinance and manual would set forth a consistent process for code enforcement. The manual would clarify to those employees assigned to code enforcement the manner in which violations are addressed. Ramis stated that the ordinance did not change the level of enforcement or what items were enforced.

Councilmember Lomnicki asked for clarification of the section on lien filing and docketing. Ramis explained that a ten-year lien period conforms to state statutes. The debt would stay in place, however, and the lien period could be renewed in additional 10 year increments.

Councilmember Lomnicki requested clarification of Procedure No. 2, Review of Reports. He expressed concern that a department head would be allowed to determine the "best interest of the City." City Manager Bartlett said that in most cases, department heads would notify the City Manager of the process and rationale for an alleged code violation. From these reports, the City Manager would make a determination regarding citation. Bartlett added that department heads were hired to utilize their expertise in certain areas of municipal operations.

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Councilmember Richmond asked if this document were in use in other cities. Ramis replied that the structure of the document was based on the code enforcement ordinance in use in the City of Tigard. He said the proposed system would place code enforcement management responsibility on City staff and economize on legal and court time.

Audience Testimony: None

Mayor Hall closed the public hearing at 7:14 PM.

<u>Council Discussion</u>: Councilmember Richmond supported the proposed ordinance because it would lend consistency to the code enforcement program.

It was moved by Councilmember Fitzgerald and seconded by Councilmember Richmond to read the ordinance amending chapter 1.08 of the Milwaukie Code pertaining to code enforcement for the first time by title only. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions. The ordinance was read the first time by title only.

It was moved by Councilmember Fitzgerald and seconded by Councilmember Lomnicki to read the ordinance for the second time by title only. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions. The ordinance was read for the second time by title only.

It was moved by Councilmember Lomnicki and seconded by Councilmember Fitzgerald to adopt the ordinance. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

ORDINANCE NUMBER 1659:

AN ORDINANCE AMENDING CHAPTER 1.08 OF THE MILWAUKIE CODE PERTAINING TO CODE ENFORCEMENT.

Consideration of Low Income Programs for User Fees, Local Improvement Assessments and Systems Development Charges

Mayor Hall opened the public hearing at 7:16 PM.

Jerri Widner, Finance Director, presented the staff report in which Council was asked to approve ordinances and resolutions regarding low income assistance programs for infrastructure improvements. One ordinance and resolution defines the low income loan program for local improvement assessment and establishes eligibility criteria and low income levels. The second ordinance and resolution defines the low income installment and deferral program for systems development charges and establishes eligibility criteria and low income levels.

Widner said the program for Local Improvement Districts offered funding alternatives for low income residents and defined the loan program options for sewer, water and streets. She said that all programs were based upon eligibility criteria already in use by the City and ORS 223 regarding the ability to Bancroft.

Widner presented data from Bureau of Governmental Research comparing Milwaukie per capita income versus that of Clackamas County. She discussed various scenarios illustrating the effects of defining low income levels. City Manager Bartlett said Council could consider a resolution each year to redefine the poverty level according to federal government data.

Widner then discussed an ordinance establishing a low income program for payment of systems development charges (SDC). She explained that in conjunction with assessments for the improvement, payment of the SDC can be difficult for low income families. The City's fund amount would remain the same, but low income residents would be assisted through a very low, simple interest rate. Widner said the ordinance also includes a five-year deferral program designed for all low income residents. She said a five-year program would be the most prudent for the City because while assisting low income families, this money would not be available to the City for other development projects.

Councilmember Fitzgerald asked if this would not be an unfair burden on seniors. Widner responded that seniors would still be able to defer through the state program and not be limited to the City's five-year program.

Councilmember Richmond asked how the needs of the City would be met if more money were being spent than was available. Widner said Council would be responsible for prioritizing projects.

Bartlett said that City staff would make demographic forecasts to determine which residents within an improvement district would probably seek low income assistance. Based on this information, Council will have to allocate resources.

Mayor Hall asked if the City staff had the technical ability and necessary computer equipment to implement such programs. Widner said that a data processing plan was underway and a financial program to fit this need would be under consideration. She said that current personnel could meet the additional work load. Bartlett said the Council had already approved a budget in which hardware and software purchases were authorized for the data processing plan.

Bartlett said that Milwaukie was the logical service provider to certain unsewered areas with low income residents. In order to compete effectively with programs already in place in Clackamas County, the City would have to have an assistance program available to low income residents.

Audience Testimony

Brooks Washburn asked if there were a prepayment arrangement. Widner responded that there was an arrangement in place.

Mayor Hall closed the public hearing at 7:50 PM.

Council Discussion

Councilmember Lomnicki said he thought the ordinance should state a maximum length of time in which the installment payments should be completed. He also expressed concern with Section 5 of the resolution regarding poverty levels. Councilmember Lomnicki said residents should be allowed to earn more and still be eligible for assistance from the City.

Bartlett said if the Council wished to adopt this suggestion, the staff had prepared an ordinance with that language.

It was moved by Councilmember Lomnicki and seconded by Councilmember Sandusky to read the ordinance amending Chapter 3.16 of the Milwaukie Municipal Code establishing a low income program, incorporating Councilmember Lomnicki's suggestions, for payment of systems development charges for the first time by title only. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions. The ordinance was read the first time by title only.

It was moved by Councilmember Lomnicki and seconded by Councilmember Sandusky to read the ordinance for the second time by title only. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions. The ordinance was read for the second time by title only.

It was moved by Councilmember Lomnicki and seconded by Councilmember Fitzgerald to adopt the ordinance. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

ORDINANCE NUMBER 1660:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON AMENDING CHAPTER 3.16 OF MILWAUKIE MUNICIPAL CODE ESTABLISHING A LOW INCOME PROGRAM FOR PAYMENT OF SYSTEMS DEVELOPMENT CHARGES.

It was moved by Councilmember Lomnicki and seconded by Councilmember Fitzgerald to adopt the resolution establishing low income levels for systems development charge installment payment or low interest deferral programs. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

RESOLUTION NUMBER 21-1989:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ESTABLISHING LOW INCOME LEVELS FOR SYSTEMS DEVELOPMENT CHARGE INSTALLMENT PAYMENT OR LOW INTEREST DEFERRAL PROGRAMS.

It was moved by Councilmember Lomnicki and seconded by Councilmember Fitzgerald to read the ordinance amending chapter 3.08 of the Milwaukie Municipal Code establishing a low income loan program for local improvement district assessments for the first time by title only. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions. The ordinance was read the first time by title only.

It was moved by Councilmember Lomnicki and seconded by Councilmember Fitzgerald to read the ordinance for the second time by title only. Motion passed 5-0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions. The ordinance was read for the second time by title only.

It was moved by Councilmember Lomnicki and seconded by Councilmember Fitzgerald to adopt the ordinance. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

ORDINANCE NUMBER 1661:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON AMENDING CHAPTER 3.08 OF THE MILWAUKIE MUNICIPAL CODE ESTABLISHING A LOW INCOME LOAN PROGRAM FOR LOCAL IMPROVEMENT DISTRICT ASSESSMENTS.

It was moved by Councilmember Lomnicki and seconded by Councilmember Fitzgerald to adopt the resolution establishing low income levels for local improvement assessment loan programs with amendment to section 5. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

RESOLUTION NUMBER 22-1989:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON ESTABLISHING LOW INCOME LEVELS FOR LOCAL IMPROVEMENT ASSESSMENT LOAN PROGRAMS.

Council recessed at 8:04 PM.

Council reconvened at 8:14 PM.

Periodic Review/Plan Update

Mayor Hall opened the public hearing at 8:14 PM.

Bill Adams, Community Development Director, presented the staff report stating that the City is revising its Comp Plan, Zoning, and other ordinances to reflect state legislative changes. As Council requested at the July 10, 1989, hearing, a proposal had been added that would eliminate the maximum density provision and emphasize Comp Plan conformity. Mayor Hall asked if it were possible to create an R-8.5 zone which would provide alternatives between the R-10 and R-7. He said he felt this might help solve problems such as those at a previous public hearing. Ramis said that either the Council could adopt a new zone, or the Council could adopt findings for each application. Adams said this zoning option could provide Council a means of accommodating a developer while maintaining the neighborhood characteristics.

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Councilmember Lomnicki said he was supportive of the draft ordinance, and although he did not understand the need for the creation of an R-8.5 zone, he would support it.

Adams said an ESEE analysis of Natural Resource Sites 4, 18, and 21 would be available to aid in determining if size reduction were appropriate. He said that draft copies of adoption ordinances were provided in the Council packet for review. Adams said it would also be appropriate at this time to consider Councilmember Lomnicki's suggestion that Johnson Creek Blvd. be designated a neighborhood collector west of 45th Ave.

Ramis said that at this time it would be appropriate for Council to summarize the site visits made during the work session.

Mayor Hall said Council, press, and members of the public had visited sites 4, 18, and 21 as a work session prior to this meeting. Each property owner had been notified in advance, and all who testified at the previous City Council public hearing had been invited to participate in the work session.

Les Wilkins, spoke on behalf of Times-Mirror, one of the landowners in Natural Resource Site #4. He said his company had not been notified of the Council visit and did not understand the purpose of the hearing. Bartlett said that employees on the Knappton property had made contact with the City and were aware of the plans. Barbara Jacobson, attorney for Knappton, said notice had been received on Monday. Mayor Hall said the purpose of the work session visit was to determine if this section should be reinstated to the Natural Resources inventory. A member of the audience asked for definition of a Natural Resource site. Adams said that State Goal #5 required cities to inventory and analyze sites to determine the level of regulation necessary if there were development. Joe Morrell, a property owner in Site 4 said this was the first time he had received any notification during the two-year process. Adams said the ordinances would require a formal Planning Commission review process if applications for development were made.

Councilmember Lomnicki said the property owners would have an opportunity to testify at the August 1 and 15 meetings prior to adoption of any ordinances. Bartlett explained that a group of individuals testifying at the previous City Council public hearing on the Periodic Review had questioned the adequacy of the Planning Commissions findings in which portions of these sites had been excluded.

Councilmember Sandusky said it was her opinion that Site 18 could be expanded and Site 21 could be reduced or removed entirely.

William Cox, Homesite Development, 3236 SE Kelly, Portland, 97201, said a portion of site 21 had been purchased for subdivision development. He said from site reviews, he did not believe that the entire Mayes property met the standards for wetlands designation. Cox said he had discussed the site with engineering and environmental consultants, and Homesite Development did not intend to develop any portion of the site which might be a wetlands.

Joe Morrell, 4991 SE Winworth, said if there is a wetlands on the site, it is only a small portion. He said the reason the site is not draining is that the City was not maintaining the sump it had installed.

Steve Mayes, 5431 SE Willow, agreed with Morrell that the sump which had been installed in approximately 1963 was no longer maintained properly. He said the vegetation which helped define a wetland was a development of the City's negligence. Mayes said this should not determine a person's ability to develop his own land. Adams said the site meets the criteria for State's definition of a wetland. Mayes responded that the City was negligent in its maintenance of the sump. Council directed staff to investigate the sump problem and report back.

Ralph Klein, 10795 SE Riverway Lane, said he would like his entire property designated as a natural resource. He said the property was more valuable as a natural resource than commercial development. Councilmember Lomnicki asked how much of the Klein property was within the Natural Resources Site review. Adams said the portion of the Klein property was based upon the 100 year flood plain. Councilmember Fitzgerald requested maps from the Corp of Engineers showing 100 year flood plain. Klein urged that property owners be contacted so that Council might consider their needs and wishes.

Wilkins said that most of the Knappton property was fill material and had been since construction in 1955. He said the property should be excluded from the inventory.

Mayor Hall closed the public hearing at 9:21 PM.

Council Discussion

Councilmember Richmond said he wanted additional clarification of the reasons for Site 21 being a wetlands. He also asked for more information on the 100 year flood plain as it relates to Site 4.

Councilmember Fitzgerald questioned the exclusion of the upper triangle portion of Site 18.

Councilmember Lomnicki supported Klein's suggestion that property owners should be allowed to have their property included in the Natural Resources inventory if they wished. He also suggested a 25' wide strip of shoreline, based upon the mean high water mark, be designated as a natural resource. He said this would mitigate riverfront development.

Mayor Hall agreed that this proposal might integrate natural resources and development. He suggested reducing the size of Site 21, and Councilmember Fitzgerald agreed. Councilmember Richmond requested more precise boundary descriptions of the sites in question.

Councilmember Lomnicki asked about the time constraints regarding family day care on packet page 12 and the appeal factors on page 13. He also questioned the section on mobile home parks on page 37. Councilmember Lomnicki was concerned that trees in addition to a sight-obscuring fence would limit solar access.

Public hearing closed at 9:43 PM.

Meeting recessed at 9:43 PM.

Meeting reconvened at 9:53 PM.

OTHER BUSINESS

Consideration of Delinquency Fees for Water and Sewer Accounts

Jerri Widner, Finance Director, presented the staff report in which Council was requested to adopt resolutions setting delinquency fees for water and sewer accounts. After analyzing pastdue accounts, staff had determined that a delinquency fee of 20% would be appropriate.

Councilmember Fitzgerald said that if he had recommended 25%, why was this resolution based upon 20%. Widner said it was calculated in this manner to maintain a \$10 residential delinquency rate and to avoid the need for two different delinquency tables.

It was moved by Councilmember Fitzgerald and seconded by Councilmember Lomnicki to adopt the resolution setting fees for water services. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

RESOLUTION NUMBER 23-1989:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON SETTING FEES FOR WATER SERVICES PROVIDED BY THE CITY UNDER MILWAUKIE MUNICIPAL CHAPTERS 13.04 AND 13.20, AND REPEALING RESOLUTION 8-1989.

It was moved by Councilmember Fitzgerald and seconded by Councilmember Lomnicki to adopt the resolution setting fees for sewer services. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

RESOLUTION NUMBER 24-1989:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON SETTING FEES FOR SEWER SERVICES PROVIDED BY THE CITY UNDER MILWAUKIE MUNICIPAL CHAPTERS 13.04 AND 13.20, AND REPEALING RESOLUTION NO. 7-1989.

Consideration of Non-Represented Employee Benefit Package

Sandra Miller, Assistant to the City Manager, presented the staff report in which City Council was requested to approve two resolutions. The first resolution modifies the Personnel Rules to describe overtime payment and administrative leave for those employees who are not eligible for overtime compensation. The second resolution provides for co-pay of health insurance premium increases by employees, BPST certification pay for Sergeants, increased equipment allowance for sworn personnel in the Police Department and boot allowance for Public Works Operations Supervisors. She explained that this was a more formal recognition of the benefits package for non-represented employees.

It was moved by Councilmember Lomnicki and seconded by Councilmember Fitzgerald to adopt the resolution modifying the benefits available to certain non-represented employees. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

RESOLUTION NUMBER 25-1989:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, MODIFYING THE BENEFITS AVAILABLE TO CERTAIN NON-REPRESENTED EMPLOYEES.

It was moved by Councilmember Lomnicki and seconded by Councilmember Fitzgerald to adopt the resolution amending Personnel Rule II, Compensation Plan. Councilmember Richmond asked what the cost of the administrative leave would be to the City. Miller said it has not been computed. Administrative leave was granted by the Council in 1984. This recommendation limits the eligibility for administrative leave to those who are not eligible for overtime. It was basically a housekeeping function that should have been done when the City began to comply with FLSA. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

RESOLUTION NUMBER 26-1989:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING PERSONNEL RULE II, COMPENSATION PLAN.

Consideration of Southeast Corridor Committee Recommendations

Bill Adams, Community Development Director, presented the staff report. He explained this was an amendment of the previous resolution. Exhibit B was added stating conditions under which the City would support the resolution. Adams recommended that the City work with Metro on language that would be agreeable to both parties and give weight to the wishes of the City of Milwaukie.

Councilmember Lomnicki said that the City of Portland was interested in working with the City of Milwaukie on these issues and was in favor of deferring the decision on the resolution. Bartlett said that representatives from several jurisdictions were interested in coming to a more favorable agreement to all parties involved. Councilmember Lomnicki agreed to represent the City in these discussions.

Councilmember Lomnicki asked that Exhibit B(1) be modified to read that a through trip was one going in either direction on Johnson Creek between 45th and west of the east end of the Tacoma Overpass. Bartlett said this would be reported on at the August 15 meeting for consideration.

It was the consensus of Council that Councilmember Lomnicki represent the City of Milwaukie at the multi-jurisdictional meeting.

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Consideration of Sewerage Facility Study with Service District #1

Dick Bailey, Public Works Director, presented the staff report in which Council was requested to authorize the Public Works Department to proceed with a joint sewerage facility study with Service District #1. CH2MHill had prepared a scope of work plan for Council consideration. Bailey recommended that the City of Milwaukie participate in the study in the amount of approximately \$38,000.

Councilmember Lomnicki expressed concern that the scope of work did not include the City of Milwaukie in all levels of participation. Bailey responded that this error had been broughts the attention of CH2MHill and corrections would be made. Bailey said that Clackamas County had made every effort to include the City in the process.

It was moved by Councilmember Richmond and seconded by Councilmember Sandusky to authorize the Public Works Department to proceed with the joint sewerage facility study at a cost to Milwaukie of \$37,849. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

Consideration of Contract for Base Mapping Project

Dick Bailey, Public Works Director, presented the staff report in which Council was requested to authorize the City Manager to contract with Spencer B. Gross, Inc. for an amount not to exceed \$50,000 to complete the base mapping projects. He said this would be the final portion of the entire project which had begun last year.

It was moved by Councilmember Fitzgerald and seconded by Councilmember Lomnicki to authorize the City Manager to contract with Spencer B. Gross, Inc. for an amount not to exceed \$50,000 to complete base mapping project. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

Milwaukie Center Expansion

Councilmember Fitzgerald requested detailed drawings of the Milwaukie Center which had been prepared by Rob Barrentine in the facilities plan project. He said that this would aid in planning a building fund drive. Bartlett said that a work session was being scheduled with Barrentine on August 15, and suggested that Council wait until that time for more information. Bartlett added that if more information than a conceptual design and preliminary cost estimates were desired by Council, that Barrentine would have to come back for additional work beyond his original contract. It was consensus of Council that the Milwaukie Center facility plan would be considered at the August 15 work session.

CONSENT AGENDA

It was moved by Councilmember Fitzgerald and seconded by Councilmember Lomnicki to adopt the Consent Agenda consisting of the City Council Minutes of July 10, 1989. Councilmember Lomnicki said he did not think he had been accurately quoted on page 5 of the minutes regarding development of Natural Resources Site 18. It was consensus of Council that the audio tapes be reviewed and the minutes be carried over to the Consent Agenda of August 1.

INFORMATION

Elderly Assistance Programs

Councilmember Fitzgerald referred to the memo regarding programs available to assist the elderly in Milwaukie Center service area. He said he felt that funds should be made available to assist the elderly in home heating. He requested a more complete report rather than a brief outline of services made available in the packet. Bartlett said the Center staff could make proposals based on the most critical needs of service area seniors and the funding necessary to meet those needs.

Vacation Accrual Cutoff

Bartlett referred to the memo from Sandra Miller regarding payoff of vacation accrual over a two-year maximum. Councilmember Fitzgerald said that employees like Bailey should be given the option of taking either the money or the time off. It was the consensus of Council to follow the City Manager's recommendation to have employees utilize vacation to bring them down to maximums.

ADJOURNMENT

The meeting was adjourned at 10:46 PM

Pat Duval